Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

No. : _____

In the

Supreme Court of the United States

ALBERTO ORLANDEZ-GAMBOA,

Petitioner,

-against-

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

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QUESTIONS PRESENTED

1. Does a District Court comply with the requirements of United States v. Booker, 543 U.S. 220 (2005) by the status it has been given adequate consideration to the factors listed in 18 U.S.C. §3553(a), even though it had already determined what sentence to impose.

PARTIES TO THE PROCEEDING

The parties to the proceeding are those named in the caption.

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED i

PARTIES TO THE PROCEEDING ii

TABLE OF CONTENTS iii

TABLE OF CITED AUTHORITIES v

TABLE OF APPENDICES vii

STATEMENT OF JURISDICTION 1

STATEMENT OF THE CASE 1

I. *Preliminary Statement* 1
II. *The Facts* 2
III. *The Decision of the Court of Appeals* 3

REASONS FOR GRANTING THE WRIT 5

1. The question presented raises a significant and recurring issue concerning a district court's obligation to consider the factors set forth in 18 U.S.C. §3553(a). 5

CONCLUSION 8

TABLE OF APPENDICES

Page

Opinion of the Court of Appeals
3202for the Second Circuit 1a

Judgment of the Southern District of New York 7a

The petitioner, Alberto Orlandez-Gamboa, petitions for a Writ of Certiorari to review the Order of the United States Court of Appeals for the Second Circuit in this case.

CITATION TO OPINION BELOW

The Order of the Court of Appeals is not reported but appears in the Appendix annexed hereto. (App. A)

STATEMENT OF JURISDICTION

The Order of the Court of Appeals was entered on June 13, 2006. The jurisdiction of the Court is invoked under 28 U.S.C. §1254(1).

STATEMENT OF THE CASE

I. Preliminary Statement

Alberto Orlandez-Gamboa ("Gamboa") was extradited from Columbia to stand trial in the United States District Court for the Southern District of New York (Griesa, J.) for conspiracy to import cocaine in violation of 21 U.S.C. §963, importation of cocaine in violation of 21 U.S.C. §960(B)(1)(b), and conspiracy to launder the proceeds of narcotics trafficking in violation 18 U.S.C. §1956(A). Following the government's successful appeal to the Second Circuit Court of Appeals from the district court's evidentiary ruling in Gamboa's favor [see United States v. Orlandez-Gamboa, 320 F.3d 328 (2d Cir. 2003)], Gamboa pleaded guilty to the charges. The district court calculated his sentence range under the United States Sentencing Guidelines as 324 to 405 months, but imposed the higher sentence of 480 months.

II. The Facts

Prior to imposing sentence, the district court briefly outlined its Guidelines calculation, concluding that Mr. Gamboa had an adjusted offense level of 41 producing a sentencing range of 324 to 405 months' imprisonment. The district court also acknowledged that it had determined the sentence to be imposed without consideration of the factors enumerated in 18 U.S.C. §3553:

> I'm going to adhere to my ruling. I'll tell you what. When I come to actually dealing with the actual sentence, I want to say to everyone, not that the guidelines at advisory - - and we're dealing with this case. I don't really believe that it's a matter of a lot of arithmetic and a lot of separate points. I believe there's a basic issue here as to what the sentence should be, and there are a few very basic considerations that really influence me. And it doesn't have to do particularly with the gun. But just to make a - - and, obviously, the two-point enhancement because of the gun is still advisory, but I'm in the habit of trying to make the calculation to see what the advice is, and so I will rule that there is a two-point enhancement for the gun under my view of the law. Then that's my ruling.

Thereafter, the district court acknowledged that if the enhancement for possession of weapons was not included, the range would be even lower. Next, the court stated that "The overriding factor here is the extreme seriousness of the crime." And, after briefly mentioning Gamboa's background, the court

ruled that he was taking the guideline range or the alternative guideline range, if I exclude the gun as some - - as advisory, but I am going above the guidelines range, even the range of 324 to 405 months, and I am imposing a sentence of 40 years in prison. Of course there will be credit for time served, which I calculate at seven years, and that means, just as a matter of arithmetic, a net sentence to be served of 33 years.

Mr. Gamboa is, let's say, 50 years old. If you take 50 years and 33 years, it adds up to 83 years. I have no doubt that that is a very severe sentence and I have no doubt that it reduces the chances of Mr. Gamboa being free, going home. It reduces the chances below what they would be with a lesser sentence.

And I have thought deeply and seriously about the issues here and about the issues that affect Mr. Gamboa personally and his family, but a crime that is this serious, if it doesn't have a life sentence attached to it, literally there must be a penalty which recognizes the extreme seriousness. . . .

I said there were certain basic considerations, and I have emphasized the seriousness of the crime. The other basic consideration is Mr. Gamboa's admission of guilt. . . I simply say that I have taken quite seriously the fact that he has admitted guilt, and I have come up with the sentence I have stated.

III. The Decision of the Court of Appeals

In its decision affirming Mr. Gamboa's conviction, the Court of Appeals found that the District Court gave adequate consideration to the factors listed. In 18 U.S.C. §3553(a), and

for a sentence above the Guidelines range:

> Gamboa does challenge the reasonableness of the forty-year sentence, contending that the district court did not give adequate consideration to the factors listed in 18 U.S.C. §3553 (a). See United States v. Crosby, 397 F.3d 103, 112 (2d Cir. 2005). But he can point to nothing in the record to support this contention. See United States v. Fleming, 397 F.3D 95, 100 (2d Cir. 2005) ("As long as the judge is aware of both the statutory requirements and the sentencing range or ranges that are arguably applicable, and nothing in the record indicates misunderstanding about such materials or misperception about their relevance, we will accept that the requisite consideration has occurred.").
>
> In addition, Gamboa argues that the district court did not give adequate reasons for sentencing above the Guideline range. See 18 U.S.C. §3553(c)(2). In fact, Judge Griesa clearly explained the reasons for imposing a higher sentence, emphasizing the need for a sentence commensurate with the "extreme seriousness" of the damage caused by Gamboa's crimes, and also a sentence that was not disproportionately short relative to "sentences imposed on lesser participants in the drug world." The district court did not recapitulate these reasons in the written order of judgment, as required by §3553(c)(2). But in

> oral argument before this panel, Gamboa declined, through counsel, to insist upon a remand for the sole purpose of correcting this error. *Cf.* United States v. Gofi, ___ F.3d ___, ___, 2006 WL 1174399 at *2 (2d Cir. May 4, 2006).

United States v. Orlandez-Gamboa, No. 05-2777-CR, 2006 WL 1668055 *1-2 (2d

Cir. 2006).

REASONS FOR GRANTING THE WRIT

1. The question presented raises a significant and recurring issue concerning a district court's obligation to consider the factors set forth in 18 U.S.C. §3553(a).

In United States v. Booker, 543 U.S. 220 (2005), the Supreme Court directed appellate courts to review sentences for reasonableness, stating that the review applied "across the board." Thereafter, in United States v. Crosby, 397 F.3d 103 (2d Cir. 2005) the Second Circuit set out in detail the procedures to be followed by courts in imposing sentences upon criminal defendants:

First, the Guidelines are no longer mandatory. Second, the sentencing judge must consider the Guidelines and all of the other factors listed in section 3553(a). Third, consideration of the Guidelines will normally require determination of the applicable Guidelines range, or at least identification of the

arguably applicable ranges, and consideration of applicable policy statements. Fourth, the sentencing judge should decide, after considering the Guidelines and all the other factors set forth in section 3553(a), whether (I) to impose the sentence that would have been imposed under the Guidelines, *i.e.*, a sentence within the applicable Guidelines range or within permissible departure authority, or (ii) to impose a non-Guidelines sentence. Fifth, the sentencing judge is entitled to find all the facts appropriate for determining either a Guidelines sentence or non-Guidelines sentence.

Id. at 113.

Here, the district court failed to follow the Crosby and Booker procedures and imposed a sentence that was unreasonable.

The district court's brief explanation for his sentence in which, in sum and substance, he only stated that the crime was serious and that Mr. Gamboa admitted his guilt, hardly satisfies the requirement of specificity in §3553(c). See, United States v. Cervantes, 878 F.2d 50, 54 (2d Cir. 1989) ("Congress intended that the most detailed explanation be set forth for a sentence beyond the boundary of the Guidelines range."); see also, United States v. Thorn, 317 F.3d 107 (2d Cir. 2003); United States v. Smith, 440 F.3d 704 (5th Cir., 2006). In Smith and in United States v. Duhon, 440 F.3d 711 (5th Cir., 2006), that Court of Appeals set out some general principles concerning sentences outside the Guidelines range. One principle the court stated is: "[T]he farther a sentence varies from the applicable Guideline sentence, the more compelling the justification based on factors in section 3553(a)." This is especially true where the district court had indicated that it had determined the sentence

to be imposed without consideration of the factors listed in 18 U.S.C. §3553 as the Court did herein.

The court in this case ignored Mr. Gamboa's age, his pre-sentence confinement and his status as a deportable alien because he apparently had been charged with crimes in Colombia including murder, kidnaping and drug activities and faced sentencing, at the time of his extradition to the United States. At the time of his arrest on these charges Mr. Gamboa was in the custody of the Colombian authorities as a result of his arrest in June of 1998 on charges of kidnaping and murder. [United States v. Orlandez-Gamboa, 320 F.3d 328 (2d Cir. 2003)].

Finally, in United States v. Cooper, 437 F3d 324 (3d Cir. 2006) the Third Circuit recently held that ". . . the court must be satisfied that the district court considered the relevant factors listed in Section 3553(a). While a district court need not state 'by rote' that it considered each factor, the record should reflect that it gave 'meaningful consideration' to those relevant to the case at hand." Id. at 329. Here, the district court did not give such "meaningful consideration" to the relevant factors which were pointed out to the court by the defense.

In sum, the district court did not live up to the duty imposed by the Second Circuit in United States v. Crosby which mandated that "with respect to sentencing judges remain under a duty with respect to the Guidelines – not the previously imposed duty to apply the Guidelines, but the continuing duty to 'consider' them, along with the other factors listed in section 3553(a)." Id. at 112. The court simply did not do that here.

CONCLUSION

For the reasons set forth above, a petition for a writ of certiorari should be granted.

Respectfully submitted:

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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, at Foley Square, in the City of New York, on the 13th day of June, two thousand and six.

PRESENT:

HON. AMALYA L. KEARSE,
HON. PIERRE N. LEVAL,
HON. GUIDO CALABRESI,
Circuit Judges.

UNITED STATES OF AMERICA,
Appellee,

v.

ALBERTO ORLANDO-GAMBOA,
also known as Caracol, also known

as Chiriqui,

Defendant-Appellant.

No. 05-2777-cr

For Appellee:

GLEN G. McGORTY, Assistant United States Attorney (Harry Sandick, Assistant United States Attorney, *of counsel) for* Michael J. Garcia, United States Attorney for the Southern District of New York, New York, NY

For Defendant-Appellant:

BARRY M. FALLICK, (Kenneth Paul and Jillian S. Harrington, *of counsel),* Rochman Platzer Fallick Steinheim Luca & Pearl, LLP, New York, NY

Appeal from the United States District Court for the Southern District of New York (Griesa, J.)

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of the district court is **AFFIRMED.**

Defendant-Appellant Alberto Orlandez-Gamboa ("Gamboa") was extradited from Colombia to stand trial in the

United States District Court for the Southern District of New York (Griesa, J) for conspiracy to import cocain in violation of 21 U.S.C. § 963

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT. BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, atFolsy Square, in the City of New York, on the 13'-[k] day of June, two thousand and six.

PRESENT:

HON. AMALYA L. KEARSE,
HON. PIERRE N. LEVAL,
HON. GUIDO CALAJBRESI,
Circuit Judges.

UNITED STATES OF AMERICA,

Appellee

V.

ALBERTO OKLANDEZ-GAMBQA,
also known as Caracol, also known as
Chinqui,

Defendant-Appellant.

No. 05-2777-cr

For Appellee:

GLEN G. McGORTY, Assistant United States Attorney (Harry Sandick, Assistant United States Attorney, *of Counsel), for* Michael J. Garcia, United States Attorney for the Southern District of New York, New York.. N.Y.

For Defendant-Appellant;

BARRY M- FALUCK (Kenneth Paul and Jilian S. Harrington, *of counsel),* Rochman Platzer Fallick Sternheim. Luca & Pearl, LLP. New York, N,Y.

Appeal from the United Slates District Court for the Southern District of New York (Griesa, J.)

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of the district court is **AFFIRMED.**

Defendant-Appellant Alberto Orlandez-Gamboa ("Gamboa") was extradited from Colombia to stand trial in the United States District Court for the Southern District: of

New York (Griesa., *J)* for conspiracy to import cocaine in violation of 21 U.S.C. § 963. importation of cocaine in violation of 21 U.S.C. § 960(b)(l)(B}, and conspiracy to launder the proceeds of narcotics trafficking in violation of 18 U.S.C. § 1956(a). Following the government's successful appeal to this court, of an evidentiary ruling in Gamboa's favor, *see United States v. Orlandez-Gamboa,* 320 F.3d 328 (2d Cir. 2003), Gamboa pleaded guilty to the charges. The district court calculated his sentence range under the United States Sentencing Guidelines as 324 to 405 months, bun then imposed a higher sentence of 480 months. Gamboa appeals his sentence.

We assume the parties' familiarity with the facts, the procedural history, and the scope of issues on appeal.

Gamboa argues that, because Colombia specified that he was extradited *"exclusively.* for acts committed subsequent to December 16, 1997" and could not be "tried or condemned for prior additional act[s]" beyond the charged offenses, the district court was not permitted to consider conduct that occurred prior to December 16, 1997 in determining his Guidelines range. [JA 154,189} It is true that the rule of specially a principle of international law applied in this circuit, "generally requires a country seeking extradition to adhere to any limitations placed on prosecution by the surrendering country" *Untied States* v. *Baez,* 349 F.3d 90, 92 (2d Cir. 2003) (per curiam). But to resolve the instant appeal, we need not decide whether the rule of specialty permits courts to consider, for sentencing purposes, conduct made off-limits to prosecution by extradition agreements. *Cf. United States v. Garrrido-Santana,* 360 F.3d *565.* 578 (6th Cii. 2004); (holding that sentencing courts may take such conduct into account); *United Slates v. Lazarevich,* 147 F.3d

1061. 1064 (9th Cir. 1998) (same). This is because the district court made clear that Gamboa would receive the same sentence whether or not pre-December 16, 1997 conduct was considered, and as explained below, we find no fault with die factual findings that underlie this conclusion.

The district court made three factual findings that increased Gamboa's Guidelines range: (1) that 150 kilograms or more of cocaine were involved, see U.S.S.G. § 2Dl.l(c)(l); (2) that he was an organizer or leader of an extensive criminal activity, *see* U.S.S.G. § 3Bl.l (a); and (3) that a dangerous weapon was possessed in the course of the offense, *see* U.S.S.G. § 2D1. l (b)(J). With respect to the first two of these sentencing factors, the district court expressly found them Co be applicable even when pre-December *16,* 1997 activity was excluded from consideration. Given the ample evidence that Gamboa headed a high-volume drug smuggling organization that continued in operation past that date, we see no error in the district court's findings; With respect to the third factor, the weapons enhancement, the district court staled on the record that he would impose the same sentence even the weapons enhancement did not apply, and Gamboa does not challenge this alternative ruling.

Gamboa does challenge the reasonableness of the forty-year sentence, contending that the district court did not give adequate consideration to the factors listed in 18 U.S.C. § 3553(a). *See United States v. Crosby,* 397 F.3d 103,112 (2d Cir. 2005). But he can point to nothing in the record to support this contention. *See United States v. Fleming,* 397 F.3d 95, 100 (2d Cir. 2005) ("As long as the judge is aware of both the statutory requirements and the sentencing range or ranges that are arguably applicable, and nothing in the record indicates misunderstanding about such materials or

misperception about their relevance, we will accept that the requisite consideration has occurred.")

In addition, Gamboa argues that the district court did not give adequate reasons for sentencing above the Guidelines range. *See* 18 U.S.C. § 3553(c) (2). In fact, Judge Griesa clearly explained the reasons for imposing a higher sentence, emphasizing the need for a sentence commensurate with the "extreme seriousness" of the damage caused by Garaboa's crimes, and also a sentence that was not disproportionately short relative to "sentences imposed on lesser [1] participants in the drug world." [A 124-25] The district court did not recapitulate these reasons in the written order of judgment, as required by § 3553(c)(2). But in oral argument before this panel, Gamboa declined, through counsel, to insist upon a remand for the sole purpose of correcting this error. *Cf. United States v. Goffi*, ___F.3d____,___, 2006 WL 1174399, at *2 (2d Cir. May 4, 2006)

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[1] Gamboa also argues before this court that the district court made insufficient factual findings in support of the four-level leadership role enhancement Sentencing courts are indeed required "to make specific factual findings to support a sentence enhancement under U.S.S.G. § 3B 1.1," *United States* v. *Molina,* 356 F.3d 269, 275 (2d Cir. 2004), and the district court did not do so. But "[inasmuch as appellant did not object at the time to the lack of specificity in the district court's factual findings, we review this issue for plain error.'[1] *Id.* at 277. Because, as discussed above, "there is evidence to sustain the enhancement," vacatur of the sentence cm this basis is not warranted. *Id.* (quoting *United States v. Gore,* 298 F.3d 322, 325 (5th Cir. 2002)).

We have considered all of Gamboa's arguments on appeal and found each of them to be without merit. Accordingly, we AFFIRM the judgment of the district court.

For the Court,

ROSANN B. MACKECHNIE,
Clerk of the Court
By:_____
Oliva M. George, Deputy Clerk

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

United States of America

v.

Alberto Orlandez-Gamboa,

JUDGMENT IN A CRIMINAL CASE
CASE NUMBER (S1 99-cr-654-01(TPG)
USM Number 00640-748

Paul Warburgh, Jr. James LaRossa, Robert
Defendant's Attorney

THE DEFENDANT:
☒ pleaded guilty to count(s) 1, 2 & 3
☐ pleaded nolo contendere to court _____
which was accepted by the court _____
was found guilty guilty on court 6/8/05
after a plea of not guilty

The defendant is adjudicated guilty of these offenses

Title & Section	Nature of Offense	Offense Ended	Count
21 USC 965	Conspiracy to Import cocain	6/1/99	1
21 USC 960 (b)(1)(B)	Importation of Cocain	6/31/99	2
18 USC 1956(a)	Conspiracy to launder proceeds of Narcotics Trafficing	1/31/99	3

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) ____

☒ Count(s) Underlying indictment x
☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for the district within 30 days of any change of name, residence or mailing address until all fines, restitution, costs & special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

5/25/05
S/ Thomas P. Griesa
Name and Title of Judge
5/25/05
Date

US District Court
Filed
May 24, 2005
S.D.N.Y.

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: FOURTY (40) YEARS
The above term of imprisonment is imposed on each of

counts 1 &2 and shall run concurrently. TWENTY (20) YEARS on count 3 which shall run concurrently with the term of imprisonment imposed on counts 1 & 2.

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The Defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal
- ☐ at _____ ☐ a.m. ☐ p.m. on _____
- ☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- ☐ before 2 p.m. on _____
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office

RETURN

I have executed this judgment as follows:

Defendant delivered _____ to _____ a _____, with a certifred copy of this judgment.

_____
United States Marshal
By:_____
Deputy United States Marshall

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: FIVE (5) YEARS

The above term of supervised release is imposed on each of counts 1 & 2 and shall run concurrently. THREE 930 YEARS on count 3 which shall run concurrently with the term of supervised release imposed on counts 1 & 2.

The conditions of supervision are imposed as designated in the Pre-Seurence Report.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of the release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable)

☒ The defendant shall not possess a firearm,

ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)

☐ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)

☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, at directed by the probation officer. (Check, if applicable.)

☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

1) the defendant shall not leave the judicial district without the permission of the court or probation officer;

2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;

3) the defendant shall answer truthfully, all inquiries by the probation officer and follow the instructions of the probation officer;

4) the defendant shall support his or her dependents and meet other family responsibilities;

5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;

6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;

7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;

8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;

9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person, convicted of a felony, unless granted permission to do so by the probation officer;

10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in

plain view of the probation officer;

11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;

12) the defendant shall not enter into any agreement to act as an informer or in a special agent of a law enforcement agency without the permission of the court; and

13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	Assessment	Fine	Restitution
TOTALS:	$300.00	$	$

☐ The determination of restitution is deferred until ___. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including

community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order of percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all non federal victims must be paid before the United States is paid.

Name of Payee	Total Loss	Restitution Ordered	Priority of Percentage
TOTALS	$ 0.00	$ 0.00	

☐ Restitution amount ordered pursuant to plea agreement $_____

☐ The defendant must pay interest on restitution and a fine of more than $2500.0 unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3512(1). All of the payment options on Street 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g)

☐ The court determined that the defendant does not have the ability to pay interest and is ordered that:

☐ The interest requirement is waived for the __fine __ restitution

☐ The interest requirement for the __ fine __ restitution modified as follows: